

SUMMARY
STATE ELECTION BOARD MEETING
2 Martin Luther King Jr., Dr., Ste. 512
Atlanta, Georgia 30334
Thursday, February 14, 2008
10:00 a.m.

1. Chairperson Handel called the State Election Board (SEB) Meeting to order at 10:03 a.m. with a roll call. A quorum was established with Jeff Israel, Tex McIver, Karen Handel, David Worley, and Randy Evans in attendance. Chairperson Handel stated Jeff Israel would conduct the Invocation and then everyone would stand for the Pledge of Allegiance.
2. Chairperson Handel stated before she called for public comments, she wanted the record to reflect that the State Election Board held a Special Called meeting on January 25, 2008 for Executive Session to discuss litigation matters only.
3. Chairperson Handel called for the approval of the December 10, 2007 minutes and asked if the Board had any comments. Randy Evans wanted changes made to the minutes. David Worley made a motion to accept the minutes as amended with Mr. Evans changes. Randy Evans seconded and the motion passed unanimously. Chairperson Handel stated there is a court reporter for the proceedings and there are verbatim minutes as well.
4. Chairperson Handel then called for the next order of business, public comments.
5. Susan Somach stated she was there as an individual but was also a volunteer for Election Protection and was concerned with the Secretary of State's position that Election Protection is illegal and problematic and her knowledge of it. Ms. Somach commented that some voters were intimidated by a Secretary of State's Office Investigator wearing a holstered gun at the Welcome All polling precinct. Ms. Somach made mention of the Electronic Poll Book and the Secretary of State's office increasing the number of books.
6. Alton Trimble told the Board that he was not allowed to vote at C.W. Hill Elementary School during the Presidential Preference Primary on February 5, 2008, that road blocks were set up in black neighborhoods, and he asked that all people have a fair opportunity to vote.
7. Randy Evans stated they would need minutes for the January 25, 2008 Special Called meeting. Chairperson Handel stated agreed and stated there will be minutes.
8. Chairperson Handel moved to the next order of business, the Inspector General cases.
 - a. SEB Case No. 2007-000013 Dade County - Chris Harvey, Deputy Inspector General, stated this case involved allegations that Recall Petitions were circulated where alcohol was sold, petitions were circulated by multiple people and then signed falsely, petitioners were harassed by the petition circulators, the recall committee members gave free food and drinks to petition signers on the square in Trenton, and that petitions that were submitted contained names and signatures of dead people.

Mr. Harvey stated their investigation found no evidence of violations and recommended closing the case. Mr. Harvey stated the Georgia Bureau of Investigations (GBI) was investigating the potential forged signatures. Randy Evans made a motion to defer this case until the GBI investigation is complete. Jeff Israel seconded and the motion passed 4 – 1 with David Worley voting against.

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- b. SEB Case No. 2007-000020 Gwinnett County - Shawn LaGrua stated this case involved an allegation that the Gwinnett County Board of Elections and Registration officials had included unnecessary steps in the process for becoming a Deputy Registrar to deter lower income racial minorities.

Ms. LaGrua stated there was no evidence to support a violation of the State Election Code and recommended closing this case. Randy Evans made a motion to accept the recommendation to close this case, David Worley seconded; the motion passed unanimously.

- c. SEB Case No. 2007-000024 Jasmine Tate – Chris Harvey stated this case involved an allegation by Ernest Tate that his wife, Jasmine Tate, was not a U.S. citizen and therefore was illegally registered to vote in Fulton County.

Mr. Harvey stated there was no evidence that Ms. Tate ever represented herself to be a U.S. citizen and recommended that Ms. Tate be removed from the Fulton County list of registered voters. Commissioner Dozier, Department of Driver Services, briefly spoke about changes that have been implemented since this incident. Tex McIver made a motion to accept the IG's recommendation, David Worley seconded; motion passed unanimously.

- d. SEB Case No. 2007-000026 Hancock County – Chris Harvey stated it was alleged that Sparta City Councilman Frank Edwards was illegally paid for being a poll worker in 2006. Mr. Harvey stated their investigation revealed Mr. Edwards did not work as a poll worker in 2006 and that Mr. Edwards did receive \$25 for attending poll worker training. Mr. Harvey recommended closing this case.

Frank Edwards spoke stating that he agreed with Chris Harvey and that he did receive a \$25 check for attending training only. David Worley made a motion to close this case. Jeff Israel seconded and the motion passed 4 – 1 with Randy Evans voting against.

- e. SEB Case No. 2007-000033 City of Doraville – Shawn LaGrua stated it was alleged that Margaret Maloney registered to vote under false pretenses and that she was using an invalid address. The investigation revealed that Ms. Maloney moved, sold her house and notified the United Postal Service (UPS). Ms. LaGrua recommended closing this case.

David Worley made a motion to close this case. Jeff Israel seconded and the motion passed unanimously.

- f. SEB Case No. 2007-000035 City of Lavonia – Shawn LaGrua stated there were two allegations in this case: (1) Voters were instructed to cast their votes on numbered ballots in pencil and that the numbered ballots identified the voter. (2) There were magnetic signs displayed on vehicles parked in the front row of the entrance to Lavonia City Hall.

Ms. LaGrua stated their investigation found no identifying markers on the ballots and that many of the ballots were completed in ink. No complaints were made to the Poll Manager regarding the signs and the Election Superintendent reported the cars were parked across the street. Ms. LaGrua recommended this case be closed. Randy Evans made a motion to close this case. Tex McIver seconded and the motion passed unanimously.

Chairperson Handel asked the Inspector General to explain why they removed the City of Greenville from the agenda. Shawn LaGrua explained that SEB Case No. 2007-0000028 City of Greenville was originally on the agenda but after speaking with one of the attorneys, she learned the appellate court granted an expedited appeal in matters coming out of some of the same issues they investigated. Ms. LaGrua stated they would go forward with this case at the next SEB meeting and would provide the Board with the appellate court decision as well.

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- g. SEB Case No. 2007-000041 Fulton County – Shawn LaGrua stated this case involved an audit conducted by investigators from the Secretary of State. On November 7, 2007, the Fulton County Board of Elections & Registration office was provided the names of 1,038 randomly selected registered voters in Fulton County and asked to provide the original registration card and any scanned image of the registration card they had to the Secretary of State.

Lee Parks, Fulton County Attorney, stated this was a reiteration of previous issues and that he has forwarded a Consent Order to Stefan Ritter of the AG's office and proposes that all of these cases be handled in their totality with a Consent Order.

Randy Evans asked Mr. Parks if he wanted all cases to be referred to the AG's office and Mr. Parks said yes. Chairperson Handel asked Mr. Ritter to provide a brief status on the other two cases. Mr. Ritter stated they are working together with Mr. Parks toward a Consent Order and encouraged the Board to bind the cases over to the AG's office. Randy Evans made motion to refer to the AG's office, Tex McIver seconded; the motion passed unanimously.

- h. SEB Case No. 2007-000046 City of Braswell – Shawn LaGrua stated Marvin Howard and his wife, Johnna were not allowed to vote in the November 6, 2007 municipal election because their names were not on the list of voters and were not allowed to vote a provisional ballot. Ms. LaGrua stated the City of Braswell never provided Polk County with a city map for them to assign precincts.

Helen Waters, City of Braswell Clerk, stated they did provide a map that was drawn in pencil, and Frances Peyton said the map she was provided indicated Mr. Howard was in Aragon. Jean Hampton, Poll Manager, stated she didn't understand she was supposed to provide a provisional ballot.

Randy Evans made a motion to refer the case to the AG's office and add the City of Braswell as a Respondent. David Worley seconded the motion and the motion passed unanimously.

- i. SEB Case No. 2008-000011 Forsyth County – Shawn LaGrua stated this case involved a complaint from Linda Ledbetter which included an allegation from Roxanne Jekot that the DRE units were not properly secured for the November 2004 General Election.

Ms. LaGrua recommended closing this case because their investigation did not find any evidence to substantiate this allegation, considering that Ms. Jekot delayed reporting this incident in 2004, statements from Gary Smith and the warehouse manager. Tex McIver made a motion to close this case, Jeff Israel seconded; the motion passed unanimously.

- j. Shawn LaGrua provided an update on SEB Case No. 2006-000050 Chattooga County stating that the Georgia Bureau of Investigations has executed two search warrants and she will continue to provide updates to the Board.

- 9. Chairperson Handel called for a motion to break for Executive Session. At 12:10 p.m., Tex McIver made a motion to break for Executive Session, Jeff Israel seconded; motion passed unanimously.

- 10. At 12:57 p.m., Tex McIver made a motion to return from Executive Session, David Worley seconded; motion passed unanimously. Chairperson Handel stated for the record, they discussed only litigation matters and no action was taken in Executive Session.

- 11. Chairperson Handel called for the next order of business, the Attorney Generals' report.

- 12. Calandra Almond, Assistant Attorney General, presented the following cases:

- a. SEB Case No. 2004-000082 Pierce County – Calandra Almond stated this case involved allegations that a political organization known as the "Taxpayers of Pierce, Wayne and Brantley County" ran a political advertisement against a candidate running for office without listing the names and addresses of at least three of the highest officials of the organization thus violating O.C.G.A § 21-2-415.

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Ms. Almond stated the AG's office responded to the Board's request for advice and that O.C.G.A. § 21-2-415 is likely unconstitutional and recommended closing this case. Randy Evans made a motion to defer this case until the Legislative Clean-Up Bill passes. Tex McIver seconded the motion and the motion passed 4 – 1 with David Worley voting against.

- b. SEB Case No. 2005-000028 City of Resaca – Calandra Almond stated this case involved violations of O.C.G.A. § 21-2-261.1(c) for the city's failure to submit changes in precincts to the Department of Justice (DOJ) for approval since 1983.

Ms. Almond stated the current administration has since submitted all required information the appropriate authorities and has signed a Consent Order providing for a cease and desist order and a reprimand. Ms. Almond recommended the Consent Order be accepted. David Worley made a motion to accept the recommendation of AG's office. Jeff Israel seconded and the motion passed unanimously.

- c. SEB Case No. 2005-000073 Heard County – Calandra Almond stated this case involved potential Election Code violations in connection with the November 2005 Special Election in Heard County.

Ms. Almond stated Respondent Robert Daniel has admitted to violating several statutes and had previously signed a Consent Order providing for a \$200 fine and cease and desist. The Board voted to amend the Consent Order and increase the fine to \$1,000. Mr. Daniel has agreed to sign the Consent Order providing for a \$1,000 fine and wanted to address the Board.

Mr. Daniel briefly acknowledged his wrongdoing, stated it wasn't intentional and apologized to the Board. Tex McIver made a motion to approve the Consent Order, Randy Evans seconded; the motion passed unanimously.

- d. SEB Case No. 2006-000019 Calhoun County – Calandra Almond stated the Board referred this case to the AG's office for the purpose of negotiating a consent order directing Respondent Annie Holder, Calhoun County Elections Superintendent and the Calhoun County Board of Registrars to cease and desist from violating O.C.G.A. § 21-2-265(a) and O.C.G.A. § 21-2-226(e).

Both respondents have taken steps to correct these issues and have agreed to sign a Consent Order providing for a cease and desist order but are reluctant to agree to a reprimand. Ms. Almond recommended the Board accept the Consent Order.

Chairperson Handel stated it was practice to include a reprimand. Tex McIver made a motion to refer the case back to the AG's office to obtain a formal reprimand as part of the remedy and Jeff Israel seconded the motion. Stefan Ritter stated it didn't have to be referred back to the AG's office if the Board would vote to accept a Consent Order that included the sanctions and reprimand. Tex McIver amended his motion stating that the AG's office modify the existing Consent Order and add a reprimand. Jeff Israel seconded and the motion passed unanimously.

- e. SEB Case No. 2006-000032 City of Dawson – Calandra Almond stated the Board referred this case to the AG's office to determine whether various officials for the City of Dawson violated the Election Code in connection with the November 2004, 2005, and 2006 General Elections.

Ms. Almond stated with respect to alleged violation of O.C.G.A. § 21-2-224, the attorney for the City of Dawson acknowledges the city failed to meet its requirements under this statute. The City appears to be the proper Respondent rather than the individuals originally named as Respondents with regards to O.C.G.A. § 21-2-224(e). Additionally the city appears to be in violation of O.C.G.A. § 21-2-212(c) for failure to appoint a Chief Registrar.

Ms. Almond stated with respect to alleged violation of O.C.G.A. § 21-2-226, the former City Attorney advised that he had delivered the map in a timely manner for the November 2004 election.

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Since this matter was referred, the County Registrar has located the map and at this time there does not appear to be any evidence that the county violated any duties under O.C.G.A. § 21-2-226.

The city signed a Consent Order providing for a cease and desist order and a reprimand for its failure to comply with O.C.G.A. § 21-2-224(e) and O.C.G.A § 21-2-212(c). Ms. Almond recommended the Board accept this Consent Order. David Worley made a motion to accept the Consent Order. Jeff Israel seconded and the motion passed unanimously.

- f. SEB Case No. 2005-000036 Ray City – Calandra Almond stated Respondent Katherine Webb admits she violated O.C.G.A. § 21-2-562(a)(1) when she falsely stated she personally witnessed Ladine Moreno move from her residence. Ms. Webb has signed a Consent Order providing for a \$1,000 fine, a cease and desist order, and a public reprimand.

Ms. Almond recommended the Board accept this Consent Order. Randy Evans made a motion to accept the Consent Order. Tex McIver seconded and the motion passed unanimously.

- g. SEB Case No. 2007-000014 Lowndes County – Ms. Almond stated this case involved a nursing home employee, Courtney Griner, who admitted to placing an “X” in the space provided for the signature on two voter registration applications and on three absentee ballot envelopes.

Rich Arnold, Attorney for Ms. Griner, stated this was not intentional, the nursing home didn’t provide instructions to Ms. Griner and that since this incident, Ms. Griner has sought and received training from the county elections board on her own.

Tex McIver made a motion to issue a Consent Order with a \$1,000 fine, a cease and desist order, a letter of instruction, and a reprimand. Chairperson Handel moved to amend this motion to include a statement that the SEB strongly urges the employer to pay this fine in light of the training issues that existed. Mr. McIver agreed to that amendment and Chairperson Handel seconded. The motion passed 3 – 2 with David Worley and Randy Evans voting against. David Worley noted for the record that Ms. Griner does not have to consent to this.

- h. Calandra Almond provided an update on SEB Case No. 2007-000012 Habersham County stating there are further investigations concerning Ms. Jarrell and recommended the Board defer this case until those investigations are completed. No action was needed.

- 13. Chairperson Handel asked Tex McIver to take over for a moment and left the room for approximately 5 minutes.
- 14. Legislative Update – Rob Simms gave a status briefing on SB 71, HB 296, SB 387, HB 1098, and HB 1112. Mr. Simms also provided an update on the Presidential Preference Primary Photo ID and General Outreach.
- 15. At 2:10 p.m. Tex McIver asked to be excused from the meeting. Chairperson Handel granted his request because he was due in court.
- 16. Elections Update – Shawn LaGrua provided an update on elections monitoring for Advanced Voting and for the Presidential Preference Primary.
- 17. Elections Update - Michael McCarthy briefed the number and reasons that Provisional Ballots were cast during the Presidential Preference Primary, election results for Democratic and Republican, Technical Field Support, and issues that came up during the Presidential Preference Primary. Mr. McCarthy also briefed the latest totals for Voter Identification Cards issued and upcoming training.
- 18. David Worley made a motion to enter into a Public Hearing for the proposed rules. Jeff Israel seconded and the motion passed unanimously.

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19. SEB Rules – Wes Taylor briefed proposed rules for the Review of Initial Decisions, Procedure to Petition for Adoption of Rules, and SEB Official Clarification Copying of Voter Registration Application. Public comment was provided by John Fortune and Susan Somach briefly.
20. David Worley made a motion to close the Public Hearing and return to the main SEB meeting. Jeff Israel seconded and the motion passed unanimously.
21. Chairperson Handel called for a separate motion for each of the proposed rules.

Proposed Rule 183-1-1-.01 Procedure to Petition for Adoption of Rules: Randy Evans made a motion to adopt this rule. David Worley seconded and the motion passed unanimously.

Proposed Rule 183-1-1-.02 Review of Initial Decisions: Randy Evans made a motion to adopt this rule. Jeff Israel seconded and the motion passed unanimously.

Proposed Rule 183-1-6-.03 SEB Official Clarification Copying of Voter Registration Applications: Jeff Israel made a motion to adopt this rule and Chairperson Handel seconded the motion. This was tabled until the next meeting because the vote was a tie with Chairperson Handel and Jeff Israel voting in favor and David Worley and Randy Evans voting against.
22. David Worley made a motion to adjourn the meeting, Jeff Israel seconded and the motion passed unanimously. Being no further business, the meeting was adjourned at 3:20 p.m.